

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 11 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JOSHUA SIMON, individually and on
behalf of all others similarly situated, et al.;

Plaintiffs - Appellees,

v.

CITY AND COUNTY OF SAN
FRANCISCO and PAUL MIYAMOTO, In
his official capacity as San Francisco
Sheriff,

Defendants - Appellants.

No. 24-1025

D.C. No.

4:22-cv-05541-JST

Northern District of California,
Oakland

ORDER

Before: VANDYKE and MENDOZA, JR., Circuit Judges.

The motion for a partial stay of the district court's February 13, 2024, order
(Docket Entry No. 4) is denied. *See Nken v. Holder*, 556 U.S. 418, 434 (2009)
(defining standard for stay pending appeal).

The existing briefing schedule remains in effect.

Simon v. City & County of S.F., No. 24-1025

VanDyke, Circuit Judge, concurring:

While the appellants have made a strong argument as to their ability to prevail on the merits, they have not shown any irreparable harm. Therefore, I concur in the denial of the stay. *See Nken v. Holder*, 556 U.S. 418, 438 (Kennedy J., concurring) (“When considering success on the merits and irreparable harm, courts cannot dispense with the required showing of one simply because there is a strong likelihood of the other.”).